

accessible, reviewable, and reproducible at the same time as the information is filed with the Commission or required by regulation to be made available.

(2) The applicant must provide a copy of the complete application (as amended) to a public library or other convenient public office located in each county in which the proposed project is located.

(3) The materials specified in paragraph (b)(1) of this section must be made available to the requester at the location specified in paragraph (b)(1) of this section or through the mail. Except as provided in paragraph (b)(4) of this section, copies of the license application and any materials referenced therein must be made available at their reasonable cost of reproduction plus, if applicable, postage.

(4) A licensee applicant must make requested copies of the materials specified in paragraph (b)(1) of this section available to the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the state agency responsible for fish and wildlife resources, any affected Federal land managing agencies, and Indian tribes without charge for the costs of reproduction or postage.

(c) *Confidentiality of cultural information.* A potential applicant must delete from any information made available to the public under paragraphs (a) and (b) of this section, specific site or property locations the disclosure of which would create a risk of harm, theft, or destruction of archeological or native American cultural resources or of the site at which the sources are located, or would violate any Federal law, include the Archeological Resources Protection Act of 1979, 16 U.S.C. 470w-3, and the National Historic Preservation Act of 1966, 16 U.S.C. 470hh.

(d) *Access.* Anyone may file a petition with the Commission requesting access to the information specified in paragraphs (a) or (b) of this section if it believes that the potential applicant or applicant is not making the information reasonably available for public inspection or reproduction. The petition must describe in detail the basis for the petitioner's belief.

§ 5.3 Process selection.

(a)(1) Notwithstanding any other provision of this part or of parts 4 and 16 of this chapter, a potential applicant for a new, subsequent, or original license may until July 23, 2005 elect to use the licensing procedures of this part or the licensing procedures of parts 4 and 16.

(2) Any potential license applicant that files its notification of intent pursuant to § 5.5 and pre-application document pursuant to § 5.6 after July 23, 2005 must request authorization to use the licensing procedures of parts 4 and 16, as provided for in paragraphs (b)–(f) of this section.

(b) A potential license applicant may file with the Commission a request to use the traditional licensing process or alternative procedures pursuant to this Section with its notification of intent pursuant to § 5.5.

(c)(1)(i) An application for authorization to use the traditional process must include justification for the request and any existing written comments on the potential applicant's proposal and a response thereto.

(ii) A potential applicant requesting authorization to use the traditional process should address the following considerations:

(A) Likelihood of timely license issuance;

(B) Complexity of the resource issues;

(C) Level of anticipated controversy;

(D) Relative cost of the traditional process compared to the integrated process;

(E) The amount of available information and potential for significant disputes over studies; and

(F) Other factors believed by the applicant to be pertinent

(2) A potential applicant requesting the use of § 4.34(i) *alternative procedures* of this chapter must:

(i) Demonstrate that a reasonable effort has been made to contact all agencies, Indian tribes, and others affected by the applicant's request, and that a consensus exists that the use of alternative procedures is appropriate under the circumstances;

(ii) Submit a communications protocol, supported by interested entities, governing how the applicant and other

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participants in the pre-filing consultation process, including the Commission staff, may communicate with each other regarding the merits of the potential applicant's proposal and proposals and recommendations of interested entities; and

(iii) Provide a copy of the request to all affected resource agencies and Indian tribes and to all entities contacted by the applicant that have expressed an interest in the alternative pre-filing consultation process.

(d)(1) The potential applicant must provide a copy of the request to use the traditional process or alternative procedures to all affected resource agencies, Indian tribes, and members of the public likely to be interested in the proceeding. The request must state that comments on the request to use the traditional process or alternative procedures, as applicable, must be filed with the Commission within 30 days of the filing date of the request and, if there is no project number, that responses must reference the potential applicant's name and address.

(2) The potential applicant must also publish notice of the filing of its notification of intent, of the pre-application document, and of any request to use the traditional process or alternative procedures no later than the filing date of the notification of intent in a daily or weekly newspaper of general circulation in each county in which the project is located. The notice must:

(i) Disclose the filing date of the request to use the traditional process or alternative procedures, and the notification of intent and pre-application document;

(ii) Briefly summarize these documents and the basis for the request to use the traditional process or alternative procedures;

(iii) Include the potential applicant's name and address, and telephone number, the type of facility proposed to be applied for, its proposed location, the places where the pre-application document is available for inspection and reproduction;

(iv) Include a statement that comments on the request to use the traditional process or alternative procedures are due to the Commission and the potential applicant no later than 30

days following the filing date of that document and, if there is no project number, that responses must reference the potential applicant's name and address;

(v) State that comments on any request to use the traditional process should address, as appropriate to the circumstances of the request, the:

(A) Likelihood of timely license issuance;

(B) Complexity of the resource issues;

(C) Level of anticipated controversy;

(D) Relative cost of the traditional process compared to the integrated process; and

(E) The amount of available information and potential for significant disputes over studies; and

(F) Other factors believed by the commenter to be pertinent; and

(vi) State that respondents must submit an electronic filing pursuant to §385.2003(c) or an original and eight copies of their comments to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

(e) Requests to use the traditional process or alternative procedures shall be granted for good cause shown.

[Order 2002, 68 FR 51121, Aug. 25, 2003; 68 FR 61742, Oct. 30, 2003]

§5.4 Acceleration of a license expiration date.

(a) *Request for acceleration.* (1) No later than five and one-half years prior to expiration of an existing license, a licensee may file with the Commission, in accordance with the formal filing requirements in subpart T of part 385 of this chapter, a written request for acceleration of the expiration date of its existing license, containing the statements and information specified in §16.6(b) of this chapter and a detailed explanation of the basis for the acceleration request.

(2) If the Commission grants the request for acceleration pursuant to paragraph (c) of this section, the Commission will deem the request for acceleration to be a notice of intent under §16.6 of this chapter and, unless the Commission directs otherwise, the licensee must make available the Pre-Application Document provided for in §5.6 no later than 90 days from the date